



2001 Annual Report to the
Governor and General Assembly



Harold D. Slemph
Chairman



Salvatore R. Iaquinto
Vice Chairman



Brian L. Bock



Nancy B. Pfeiffer



Byrum L. Geisler



Kelly R. Young

Mission Statement

To enforce the charitable gaming laws of the Commonwealth and prescribe regulations so as to enhance the integrity of the activities, provide for even regulation, and maintain the highest quality charitable gaming environment, free of corrupt, dishonest or unprincipled practices, so as to increase the financial gain of bona fide charities.

A Brief History of Charitable Gaming in Virginia

The operation of bingo games by charitable organizations was legalized by the General Assembly in 1973. At that time, an exception to the general prohibition against gambling was created for bingo games and raffles under certain circumstances. During the 1978 Session of the Virginia General Assembly, House Joint Resolution No. 155 was passed and directed a joint subcommittee of the House and Senate Committees on General laws to undertake a comprehensive study of the bingo laws of the Commonwealth. The passage of this resolution was the result and concern of the General Assembly that large amounts of cash were being exchanged during the bingo games and there was a significant lack of uniformity from one locality to another in the control of bingo games. They surmised that as a result, bingo games were essentially an unregulated exchange of large sums of money. As a result of the study, the original bingo laws were replaced with a more comprehensive statutory design.

Senate Joint Resolution No. 195, agreed to during the 1993 Session of the Virginia General Assembly, established a joint subcommittee to study the State statute governing bingo and raffles. The main issues to be addressed were: (i) rental fees paid to bingo facility operators, (ii) percentages of profits actually returned to charitable organizations, and (iii) bogus charities acting as fronts for illegal bingo operations. Bingo was declared "the perfect white-collar crime" in the *Racketeering and Organized Crime in the Bingo Industry – April 1992 – Pennsylvania Crime Commission Report*, a publication utilized under the Senate Joint Resolution No. 195 study. As a result of joint subcommittee study, the Virginia Charitable Gaming Commission (the "Commission") was created in 1995 by the Virginia General Assembly to address major concerns with charitable gaming in the Commonwealth, and was the result of rampant abuses, including fraud and embezzlement, due to inconsistent local regulation and enforcement of gaming activities. Prior to the creation of the Commission, a very small percentage of money raised under the guise of charity went to charity.

The fiscal year 2001 marks the completion of the Charitable Gaming Commission's fifth full gaming year as the statewide agency responsible for oversight of charitable gaming activities in the Commonwealth of Virginia. The Charitable Gaming Commission is a non-general fund agency.

To the Governor and Members of the General Assembly

This Annual Report summarizes the major issues affecting the charitable gaming industry in the Commonwealth of Virginia for the period October 1, 2000 through September 30, 2001. During this period, the Virginia Charitable Gaming Commission (the "Commission") experienced many successes, and encountered many challenges toward our mission of maximizing charitable gaming proceeds being utilized for charitable purposes, enhancing Agency efficiencies on behalf of the permitted charitable gaming organizations that we regulate, and recognizing and eliminating fraud within the Industry.

For 2001, contributions to charities derived from charitable gaming remain positive. Since the Commission's inception in 1996, charitable contributions have steadily increased. In 1996, approximately \$23,000,000 was donated to charitable causes, and in 2000, approximately \$48,700,000 went to charity. This is truly an impressive achievement and I am pleased to report that we have had continued success in 2001. For the year ending September 30, 2001, approximately \$348,000,000 was generated as reported gross receipts from charitable gaming within the Commonwealth. Of that amount, \$49,200,000 was donated to charity. The goal of the Commission is to assist permitted charitable gaming organizations to raise monies for charities of their choice, and to enhance their communities in their charitable efforts.

The primary legislation enacted by the Virginia General Assembly for the year was Senate Bill 1177, which became law July 1, 2001. The bill provided that the proceeds from pull tabs or seal cards no longer have to be included in a qualified organizations gross receipts if the gaming was limited to its members and guests, not open to the general public, and there was no public solicitation or advertisement regarding the gaming activities. The General Assembly also limited the sale to the premises owned or exclusively leased by the qualified organizations. In essence, this bill allowed an exclusive group to conduct gaming activities without the premise of donating monies raised to charitable causes. The Governor of Virginia vetoed Senate Bill 1177 because it created a dramatic change in the Commonwealth's public policy prohibition against unregulated legalized gambling and removed the responsibilities incumbent upon those who engage in charitable gaming. The Virginia General Assembly overrode the Governor's veto. The Virginia Attorney General issued an Official Opinion outlining the Commission's continued regulation of these activities, such as audit, inspection and enforcement.

House Bill 2375 ordered the Commission to examine whether leases between operators of commercial bingo facilities and qualified organizations conformed to the standards set forth in § 18.2-340.33(3), Code of Virginia, 1950, as amended. It also extended the moratorium until July 1, 2002 relative to the denial, suspension or revocation of a permit of an organization because of its failure to meet their charitable obligation requirement if an organization was conducting gaming in a rented facility before January 1, 2000, as long as the organization was otherwise in compliance with the laws and regulations governing charitable gaming in the Commonwealth. The Commission reported its findings to the Governor and the General Assembly in November, 2001 with the assistance of a renowned real estate expert. The report included two formulas for calculating fair market rental value that allowed for the owners of commercial bingo facilities to make a reasonable profit, and to allow organizations to find a more appropriate formula to ensure that they were able to meet their rent at the same time ensuring that monies were earmarked for charitable causes as required by law. The moratorium was continued until June 30, 2003 as a result of legislative actions taken during the 2002 Session of the Virginia General Assembly.

The Commission continues with an action plan to assist organizations in reaching their charitable goal. We recognize that for an organization to be successful in charitable gaming, they must have the ability to run the activity as a business. In the past, we have provided group training, but we now have taken this a step further to initiate a process to provide individual training to each new qualified organization receiving a gaming permit. In addition, our professional staff reviews gaming activities on an on-going basis to ensure organizational charitable gaming success. Special emphasis is directed to identify organizations from an audit perspective that are non-compliant in an effort to ensure all gaming funds are accounted for and qualified expenditures are made to maximize donations to charity.

The Commission will continue to serve and provide cost-effective services to our customers – the citizens of the Commonwealth of Virginia, and will continue to assist all qualified organizations in the conduct of regulated charitable gaming activities.

Sincerely,



Harold D. Slemple
Chairman

Charitable Obligations

Section 18.2-340.19(1) of the Code of Virginia, 1950, as amended, sets out the conditions upon which a qualified organization may obtain a permit or exempt authorization. State regulation sets out an organization's prescribed minimum use of proceeds ("charitable obligation") percentage standards. Qualified charitable gaming organizations are mandated to use a certain percentage of their gross charitable gaming receipts for (i) those lawful religious, charitable, community or educational purposes for which the organization is specifically chartered or organized or (ii) those expenses relating to the acquisition, construction, maintenance or repair of any interest in real property involved in the operation of the organization and used for lawful religious, charitable, community or educational purposes. Using a graduated scale of percentages, the Charitable Gaming Rules and Regulations mandate the following annual gross receipts to charitable obligation percentage ratios:

- Less than \$150,000 – 5%
- Between \$150,000 and \$500,000 – 10%
- Over \$500,000 – 12%

These percentages are based on the annual gross receipts from the prior fiscal year. If an organization derived no gross receipts in the prior fiscal year, the gross receipts of the most recently completed fiscal year shall be used to determine the applicable percentage for the charitable obligation requirement. An organization with no prior charitable gaming activity is subject to a 5.0% minimum charitable obligation requirement. Failure to meet minimum charitable obligation requirements may lead to suspension of charitable gaming privileges, and repeated failures may lead to suspension and/or revocation of an organization's charitable gaming permit.

Charitable Donation, Facility Disbursements and Restricted Accounts

Non-profit organizations conducting charitable gaming activities are classified as either exempt or non-exempt. Organizations that anticipate annual gross receipts of \$25,000 or less from charitable gaming are not required to hold a permit nor file any of the mandated financial reports with the Commission. Volunteer fire departments and volunteer rescue squads are classified as "exempt" organizations, meaning they are exempt from paying audit fees and from most financial reporting responsibilities. These organizations must file an Exempt Organization Notification at the beginning of the year in order to conduct charitable gaming activities. At the end of the year, each exempt organization conducting charitable gaming must file an Exempt Organization Resolution form to report their total gross receipts and charitable obligation percentage. The balance of qualified organizations are classified as "non-exempt". Non-exempt organizations qualified to conduct charitable gaming activities in Virginia generally fall into seven categories and they are as follows: (1) fraternal, (2) veterans, (3) religious, (4) educational, (5) charitable, (6) community, and (7) other.

The majority of a non-exempt organization's annual gross gaming receipts are used to cover the costs of gaming prizes and associated supplies. For the year 2001, a record \$306,082,132 was generated in gross gaming receipts. After prizes and expenses, \$40,749,213 was reported as being disbursed toward their charitable obligation. A total of \$8,515,587 was paid toward the rental of facilities and \$4,318,902 was reported as business expenses. Once an organization has reached its minimum charitable obligation, proceeds may be expended to cover specified operational costs that are not considered within the regulations as religious, charitable, community, or educational purposes. However, the Commission encourages organizations to exceed their charitable obligations.

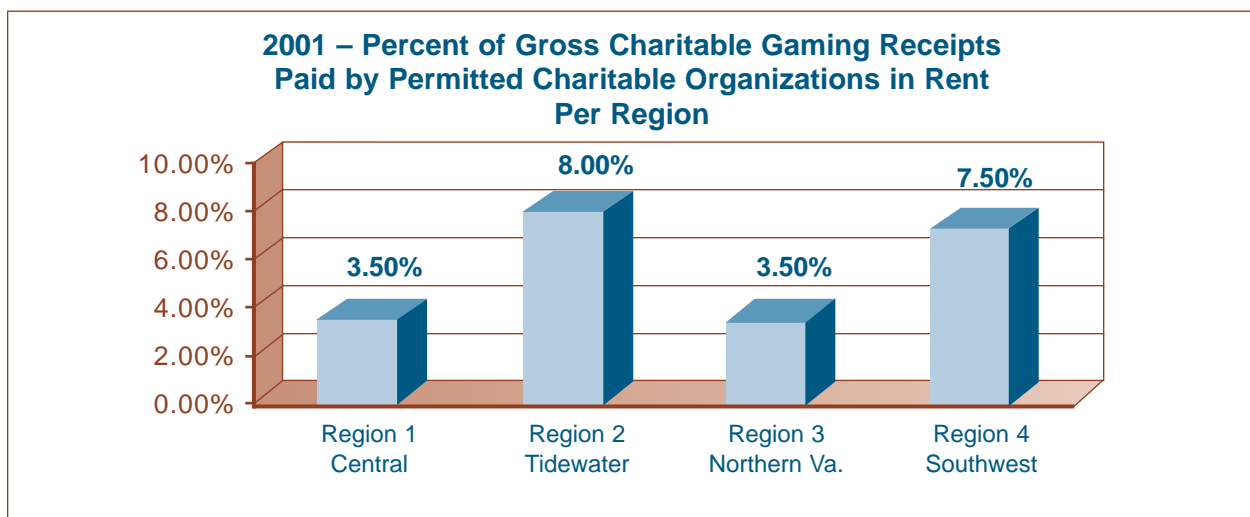
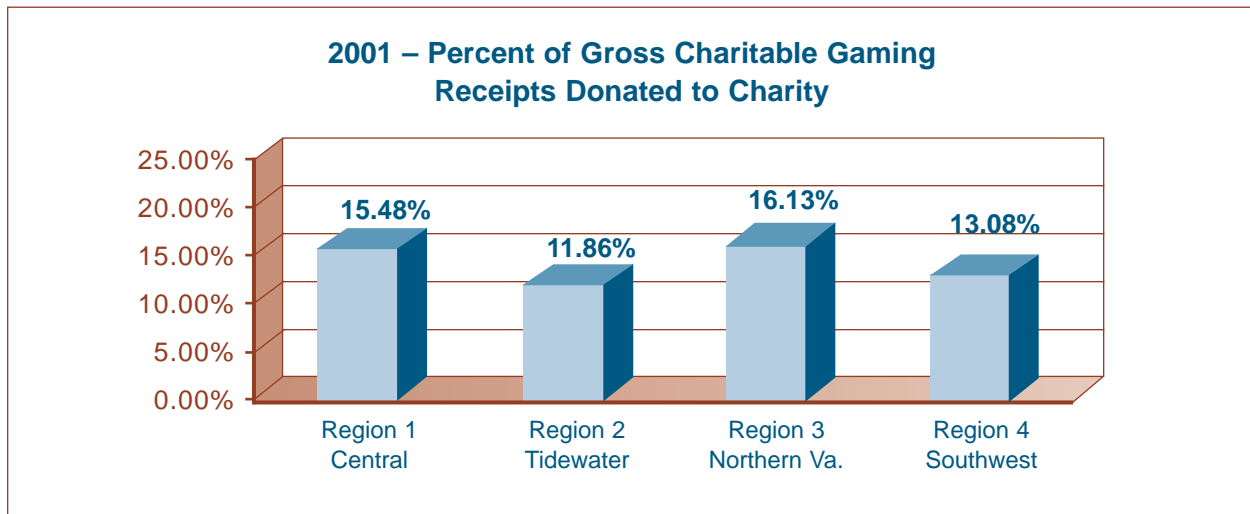
The Code of Virginia and the Charitable Gaming Rules and Regulations define religious, charitable, community or educational purposes several ways. First, there are the traditional charitable, religious, educational, and community activities sponsored by a non-profit organization. These activities are normally stated in an organization's charter or designated by their Internal Revenue Service classification. Second, organizations that own their facilities or exclusively lease them and open their facilities for use by the community may use proceeds from charitable gaming activities to maintain and improve their facilities (organizations are required to following Internal Revenue Service rules and regulations for expenditures of this nature to ensure they stay in compliance with their tax exempt privilege). Mortgage payments, real estate taxes, utility costs, and repair and maintenance are among the qualified facility Use of Proceeds as to the Commonwealth of Virginia. There are federal restrictions placed upon organizations who utilize monies in this fashion. Third, an organization may also set aside proceeds as savings within a restricted account for charitable purposes at a later date.

Charitable Obligation, Facility Disbursements, and Rent

All organizational group types use at least part of their charitable gaming receipts toward specified facility disbursements as defined by the Code of Virginia and Charitable Gaming Rules and Regulations. Organizations that rent facilities in order to hold gaming activities are not allowed to consider the rent paid for its facilities as a charitable obligation. This has long been a point of contention for organizations that rent facilities, more particularly, those who do not meet their annual charitable obligation percentage targets. Organizations that rent facilities in the conduct of charitable gaming activities must ensure that their first priority is meeting their charitable obligation.

Rents paid by organizations ranged from a low of \$1.00 to a high of \$307,000 for the year ending September 30, 2001. The highest average rental rate is in Region 2 – Tidewater, which has the highest concentration of games of any other region in the State. Tidewater organizations also paid the highest rental rate of any other region in the State as well. There is an indication that there is a correlation between the rate of rent being paid and an organization meeting their charitable obligation. The amount of rent paid by gaming organizations has led to two Virginia General Assembly sponsored studies, House Document 27 – 2001 and House Document 11 – 2002. The studies sought to examine a means of determining fair market rental value relative to commercial bingo halls and provided a means and formula for commercial bingo landlords to receive a fair profit on their return, while at the same time allowing charitable gaming organizations to meet their charitable obligation requirement. The Commission has identified multiple organizations that are paying more in rent than they are donating to charity.

2001 Charitable Gaming Statistics for Permitted Organizations¹



¹ This figure does not include data relative to organizations that had gross gaming receipts under \$25,000 and were not required to be permitted by or report to the Charitable Gaming Commission.

Enforcement

The Charitable Gaming Commission's enforcement section is charged with investigation of fraud, theft and embezzlement. There were 130 Incident Reports taken by the Commission's enforcement section in 1999, 164 in 2000, and 379 in 2001. Commission inspectors and special agents are charged with investigating each Incident Report. These reports include cheating, embezzlement, grand larceny, illegal gambling, regulatory violations, unlicensed gambling, and other types of criminal activity reported to be occurring in all type of organizations, including, but not limited to, volunteer fire and rescue departments, veteran and fraternal organizations, sport booster clubs, educational, and literacy clubs in the charitable gaming industry in the Commonwealth. During the time period 1999 through 2001, there has been a total of 46 counts of embezzlement and illegal gambling cases adjudicated involving the theft of between \$200 to \$1.2 million dollars.

Below are highlights of 2001 investigations in which criminal charges were brought:

Virginia Beach – An individual was charged and convicted of diverting \$4,700 from an illegal raffle for his personal use.

Vinton – A former treasurer and bookkeeper for a charitable organization that conducted charitable gaming activities was indicted and convicted of embezzlement of funds in excess of \$20,000.

Staunton – An individual who organized bus trips to various states for the purpose of gambling was found to have been selling illegal instant bingo tickets while in geographical jurisdiction of the Commonwealth. The individual was charged and convicted of conducting an illegal gambling operation and illegal possession of gambling devices.

Virginia Beach – During an investigation of charitable gaming activities, the Commission discovered that a custodian at a commercial bingo facility was sifting through trash receptacles and recovering un-defaced winning instant bingo tickets. This individual would then take the tickets to another bingo hall and redeem the ticket for cash. This person was charged and convicted of two separate counts of obtaining money under false pretenses and one count of attempting to obtain money under false pretenses.

Norfolk – After the Commission received a complaint from a current bingo manager of a charitable organization, it discovered that the organization's previous bingo manager was embezzling charitable gaming funds. The previous bingo manager was charged and convicted with misdemeanor embezzlement.

Virginia Beach – A game manager and a worker conspired to pay the worker \$13,000 from a progressive raffle. The worker was charged and convicted of obtaining money by false pretenses.

Building Tools

Throughout the course of 2001, Commission staff traveled to various parts of the Commonwealth to assist gaming organizations with their financial reporting, record keeping and general game management. The Commission held training sessions throughout the Commonwealth for all new applicant organizations to ensure successful charitable gaming activities. In addition, the Commission hosted more than 600 individuals in two one-day training sessions held in the fall of 2001. The format allowed the Commission to save money on training costs associated with budgetary reductions. An agent with the Internal Revenue Service was a guest speaker and explained the tax consequences to charitable gaming organizations relative to instant bingo and pull-tab tickets sold by their organizations. Training materials from these sessions are available on the Commission web site.

Legislative Review

The 2002 Session of the Virginia General Assembly saw the passage of two bills that impact charitable gaming. The first was House Bill 1233 ("HB 1233") [Charitable gaming; definition of reasonable & proper business expenses]. HB 1233 provided that payments made pursuant to § 51.1-1204 to the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund shall be deemed a reasonable and proper business expense. As a result, a qualified organization may use proceeds from charitable gaming to make contributions to the Fund. House Bill 931 ("HB 931") [Charitable Gaming Commission; fair market rental value]. HB 931 added a definition of "fair market rental value" and provided clarification of "winner-take all" games, and extended the moratorium for suspension of a charitable gaming permit for failure to meet the charitable obligation requirement until June 30, 2003 for organizations that rent facilities in commercial bingo halls and were gaming prior to January 1, 2000.

Legislative Recommendations

The Commission continues to evaluate the impact of legislative changes made during the 2002 Session of the Virginia General Assembly to ensure there are no statutory or regulatory conflicts, and will continue to communicate with organizations as changes arise. On the regulatory front, Commission regulations have not been amended in any form or manner since January 1, 1998, but due to issues raised by the charitable gaming community, the Commission is in the process of evaluating suggested regulatory changes.

2001 Financial Statement

The following financial statement of the Charitable Gaming Commission for the period July 1, 2000 to June 30, 2001 is provided in accordance with 18.2-340.18 (9) of the Code of Virginia.

Total Appropriations	\$2,404,365
Total Expenditures	\$2,233,233
Operating Balance	\$ 171,132

2001 Jennifer Byler Award Winners for Outstanding Charitable Gaming

*Loyal Order of Moose 1947
1967 Flag Lane
Mechanicsville, Virginia 23111
Charitable Gaming Commission No. 1626*

*Veterans of Foreign War Post 9808
7168 Flag Lane
Mechanicsville, Virginia 23111
Charitable Gaming Commission No. 778*

*Sacred Heart Catholic Church
12975 Purcell Road
Manassas, Virginia 20112
Charitable Gaming Commission No. 1159*

*Animal Assistance League of Virginia, Inc.
1149 New Mill Drive
Chesapeake, Virginia 23322
Charitable Gaming Commission No. 943*

*East Rivanna Volunteer Fire Company
3501 Steamer Drive
Keswick, Virginia 22947
Charitable Gaming Commission No. 117*

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